

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 4-7 remain in the application. None of the claims have been amended.

The claims have been rejected as being anticipated by Brenny et al. (US 5,839,377, hereinafter "Brenny") under 35 U.S.C. § 102. We respectfully traverse.

Brenny lacks several features that are recited as being essential in applicants' claims. The reference, therefore, is not suitable to trigger an anticipation rejection. As a brief reminder, anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 221 USPQ 385 (Fed. Cir. 1984). Here, the reference to Brenny does not disclose each element of claim 4, nor does it disclose structure that is capable of performing the recited functions.

By way of example, elements 142 and 144 are not lever bearings. Instead, they are a pivot arm and a bracket. Besides, the elements 142, 144, and 148 cannot be read on, or even compared with, "tool levers" within the definitional boundaries of the claimed invention. Fig. 3 of Brenny shows a "rail clamp assembly 110 and 112" on each side of the tool levers (here: "work arms) 102, 104. The rail clamp assemblies include the parts 142, 144, and 148. Those assemblies only serve to guide the machine along the rail. They are not involved in the placement or the removal of the

clips. That is, neither are they identical or similar to the claimed elements, nor do they fulfill any comparable function.

The only relevant structure in Brenny – as relates to the claims – are the work arms 102 and 104 (Fig. 4), which may indeed be compared with the claimed tool levers (5). The work arms are pivotally mounted at their upper ends on a shaft 162 that forms a pivot pin. The shaft 162, therefore, may be compared with applicants' first lever bearing 11. The work arms may be pivoted about the shaft 162 by way of the hydraulic drive 160. The lower end of the lever 102 and 104, which carries the work tools, necessarily swings along an identical arc during the installation and during the removal of the clips. Reference is had, in this context, to the specification where this is described as representing a considerable disadvantage.

The solution provided by applicants' invention is memorialized in claim 4, which reads, *inter alia*:

first **and second** lever bearings, spaced from one another in a transverse direction for **selectively** pivoting about a first pivot axis **or a second pivot axis** respectively defined by said first and second lever bearings.

These features provide for a choice during the installation and the removal of the clips to select the respectively optimal arc to be swung by the tools. This, of course, is not possible with the Brenny device. There, there is available only **a single pivot pin (i.e., shaft 162) per lever arm**. All of the other axes and shafts that are illustrated in Fig. 4 have no bearing on the pivoting by the lever arms.

Brenny does not anticipate the claimed invention. None of the references or record, whether taken alone or in any combination, either show or suggest the features of claim 4. Claim 4 is, therefore, patentable over the art and since all of the dependent claims are ultimately dependent on claim 4, they are patentable as well.

The allowance of claims 4-7 is solicited.

Respectfully submitted,

/Werner H. Stemer/

Werner H. Stemer
(Reg. No. 34,956)

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Lerner Greenberg Stemer LLP
P.O. Box 2480
Hollywood, Florida 33022-2480
Tel.: 954-925-1100
Fax: 954-925-1101